

THE LAW FIRM
OF

RAVI BATRA

MEMO ENDORSED

Conference
scheduled for
September 8 in
adjourned to September 26, 2008
at 9:30am.
SO ORDERED

THE BATRA BUILDING
142 LEXINGTON AVE.
NEW YORK, NEW YORK 10016
212-545-1993

RAVIBATRALAW@AOL.COM

FAX: 212-545-0967

Via Facsimile (212)805-7949
Hon. P. Kevin Castel, U.S.D.J.
United States Courthouse
500 Pearl Street, Room 2260
New York, NY 10007

USDC SDNY
September 4, 2008
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 9/5/08

OSOT
9-4-08

Re: Fourth request for adjournment of Pre-Motion Conference, currently scheduled for September 8, 2008 in: *Zino Davidoff v. American Resources Corp.*, 08 CV 2900 (PKC), to further productive settlement negotiations

Respected Judge Castel:

The undersigned represents defendant American Resources Corp. By this letter we respectfully request an adjournment of the pre-trial conference scheduled in this matter until 10/14/08 or 10/15/08, preferably in the afternoon, subject to the Court's availability.

The parties are actively engaged in negotiations to amicably resolve this matter with finality and hopefully we will have a stipulated disposition to be "So Ordered" by the Court. All prior adjournments requested were for the furtherance of these negotiations. By letter from the undersigned, the last request was made on July 29, 2008 after then having been recently advised by plaintiff's counsel that a proposed financial component to a final and amicable resolution of this matter would be rapidly forthcoming. It was the undersigned's intent in seeking the prior adjournment of the conference to afford time to meaningfully confer with our client about the proposed resolution and have a resolution of the matter in place prior to September 8, 2008. By letter dated August 8, 2008 we inquired of plaintiff's counsel if their proposal for settlement would require additional time to compile so that we could expeditiously inform Your Honor of any anticipated

delays; however, we received no response until on or about August 28, 2008, the Thursday before the Labor Day holiday, while the undersigned and Todd Sherman, Esq., an associate with my firm involved in this matter, were each on vacation, and a settlement offer was first forwarded by plaintiff's counsel.

The financial component of the proposed settlement is largely fact driven; however, there exists an issue as to confirmation of certain facts critical to the figures currently suggested by plaintiff's counsel. As there has been no reasonable opportunity to confer with representatives of the corporate defendant - both to meaningfully discuss the parameters of the proposed settlement, and to obtain confirmation of certain facts we believe should mitigate favorably to the defendant, we firmly believe that an adjournment of the proceedings scheduled for September 8, 2008 is appropriate. We have sought the consent of the plaintiff; however, because of client directives, plaintiff's counsel cannot consent to an adjournment.

In light of the extremely recent disclosure of the proposed financial component to a settlement such a resolution is not possible by September 8, 2008. We do nevertheless firmly believe that the potential for amicable resolution of this matter remain very strong; however, until we are afforded an opportunity to meaningfully confer with the defendant's representatives we believe that the precious judicial resources necessary to hold a conference should be conserved. It is my firm belief that all factual issues will be addressed by the requested adjournment date and that a final resolution of the matter consistent with the facts is highly probable at that time, with a proposed stipulation to be "So Ordered" presented.

Respectfully yours,

The Law Firm of Ravi Batra, P.C.

Ravi Batra, Esq. (RB 4299)

cc: Robert Potter, Esq. (212) 775-8816